

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

RECEIPT # 65142
 AMOUNT \$ 250
 SUMMONS ISSUED Y-1
 LOCAL RULE 4.1 _____
 WAIVER FORM _____
 MCF ISSUED _____
 BY DPTY. CLK. M
 DATE 6-22-05

AFTERMATH CLEANING COMPANY,
INC.,

Plaintiff,

v.

AFTERMATH, INC.,

Defendant.

CIVIL ACTION NO. _____

COMPLAINT AND REQUEST
FOR JURY TRIAL

INTRODUCTION

MAGISTRATE JUDGE Alexander

The Plaintiff, Aftermath Cleaning Company, Inc. ("Aftermath"), is a company that specializes in cleaning and restoring bio-hazard sites at trauma and crime scenes. Aftermath has been in business since on or before February 1999 using the trademark "AFTERMATH," and provides services primarily in Massachusetts, Rhode Island, Connecticut, and New Hampshire. The trademark "AFTERMATH" is distinctive and is associated with one source, the Plaintiff, in each of those states. The Defendant, Aftermath, Inc., is an Illinois-based company which also specializes in the cleaning and restoring of crime and trauma scenes. The Defendant recently began conducting business in Massachusetts, Rhode Island, Connecticut, and New Hampshire using the Plaintiff's trademark, "AFTERMATH." The Defendant's activities have caused, and likely will continue to cause, substantial consumer confusion and harm to the Plaintiff's business. Based on its prior use of the mark, the Plaintiff seeks, in this action, to prevent the infringement of its trademark, and to recover its damages and costs. Furthermore, because the Defendant knew of the Plaintiff's use of the "AFTERMATH" mark at the time that it applied for a federal trademark registration, and falsely represented to the United States Patent and

Trademark Office that no one else had the right to use the mark, the Plaintiff seeks cancellation of the Defendant's federal registration of the mark.

PARTIES AND JURISDICTION

1. Aftermath Cleaning Company, Inc. is a corporation organized and existing under the laws of Massachusetts with a principal place of business in Easton, Massachusetts.

2. Aftermath, Inc. is a corporation organized and existing under the laws of Illinois with a principal place of business in Plainfield, Illinois.

3. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1338(a) and (b), 28 U.S.C. § 1367(a) and 28 U.S.C. § 2201.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims occurred in this jurisdiction.

FACTS

5. Aftermath (the Plaintiff) is a company that specializes in cleaning and restoring bio-hazard sites at trauma and crime scenes. The Plaintiff provides services primarily in Massachusetts, Rhode Island, Connecticut, and New Hampshire.

6. The Plaintiff has been continuously using the trademark "AFTERMATH" in commerce since at least February 1999. Since then, the Plaintiff has spent considerable time, effort, and expense promoting its name and services to potential customers, including police departments and other organizations. As a result of its efforts, the Plaintiff enjoys an excellent reputation in the industry for its services and business goodwill.

7. The name "AFTERMATH" is well known, readily recognized, and distinctive, and customers in Massachusetts, Rhode Island, Connecticut, and New Hampshire associate it with only one source – Aftermath Cleaning Company, Inc.

8. The Defendant, Aftermath, Inc., is an Illinois-based company that also specializes in sanitization, removal, and disposal at crime and trauma scenes.

9. The Defendant filed for a federal trademark registration for “Aftermath” on February 4, 2002, and received such registration on April 15, 2003. See United States Patent and Trademark Office (“USPTO”) Registration Number 2,706,559.

10. In connection with the Defendant’s application for a federal registration, on September 24, 2002, the Defendant’s attorney sent a letter to the Commissioner for Trademarks at the USPTO, containing the following declaration: “to the best of my knowledge and belief, no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive...” A true and accurate copy of the letter is attached hereto as Exhibit A. The Defendant knew that this declaration was untrue at the time it was made. The Defendant knew of the existence of the Plaintiff and the Plaintiff’s use of the trademark “AFTERMATH” at the time it made this declaration.

11. According to its federal filing, the Defendant claims that its first use of the name “Aftermath” in commerce was on April 20, 1999. However, the Plaintiff believes that until recently, the Defendant did not use the name “Aftermath” in Massachusetts, Rhode Island, New Hampshire or Connecticut.

12. In each of those states, the Plaintiff is the senior user of the mark “AFTERMATH.” The Plaintiff began its use of the “AFTERMATH” mark in Massachusetts, Rhode Island, Connecticut, and New Hampshire prior to the Defendant’s filing for or obtaining its federal registration or using the term “AFTERMATH” in those states.

13. The Defendant recently expanded its business to Massachusetts, Rhode Island, Connecticut, and New Hampshire, states in which the Plaintiff was already operating and using the “AFTERMATH” mark. There are already multiple instances of customers and potential customers of the Plaintiff becoming confused because of the similarity in the parties’ names.

COUNT I

(Trademark Infringement – Lanham Act – 15 U.S.C. §1125(a))

14. The Plaintiff incorporates by reference paragraphs 1 through 13 as if separately set forth herein.

15. The Plaintiff uses “AFTERMATH” as a trademark for the Plaintiff’s services in Massachusetts, Rhode Island, Connecticut, and New Hampshire.

16. The Plaintiff used “AFTERMATH” as a trademark before the Defendant began to market and provide services in Massachusetts, Rhode Island, Connecticut, and New Hampshire.

17. The Defendant has adopted and is using a business and domain name confusingly similar to the Plaintiff’s trademark in these states.

18. By adopting and using the Plaintiff’s “AFTERMATH” mark in these states, the Defendant is making a false express and/or implied representation that its services are from or associated with the Plaintiff.

19. The Defendant’s conduct has caused and likely will continue to cause consumer confusion, including, without limitation, confusion as to the Defendant’s affiliation, connection, or association with the Plaintiff.

20. The Defendant’s conduct constitutes false descriptions or designations of origin within 15 U.S.C. §1125(a).

21. The Defendant willfully intends to trade on the Plaintiff’s reputation.

22. The Defendant's conduct has caused, and likely will continue to cause, substantial and irreparable injury and harm to the Plaintiff's reputation as well as economic damages. Unless enjoined, the Defendant will likely continue its conduct.

WHEREFORE, the Plaintiff requests the relief set forth below.

COUNT II
(Common Law Trademark Infringement)

23. The Plaintiff incorporates by reference paragraphs 1 through 22 as if separately set forth herein.

24. The Plaintiff first used the trademark "AFTERMATH" in connection with the provision of services in commerce on or before February 1999, and has been using it in commerce consistently since then.

25. In Massachusetts, Rhode Island, Connecticut, and New Hampshire, the "AFTERMATH" trademark is associated with the Plaintiff and the services that the Plaintiff provides.

26. The Defendant knew of the Plaintiff's trademark, and intentionally and willfully copied it in an attempt to appropriate for itself the goodwill associated with the mark.

27. The Defendant's use of "Aftermath" in connection with its virtually identical business is being confused and is likely to continue being confused with the "AFTERMATH" trademark held by the Plaintiff.

28. The Defendant's actions constitute common law trademark infringement.

29. The Defendant's actions have caused and will cause the Plaintiff substantial and irreparable injury, loss of reputation and economic damages. Unless enjoined, the Defendant will likely continue these acts.

WHEREFORE, the Plaintiff requests the relief set forth below.

COUNT III

(Declaratory Judgment pursuant to 28 U.S.C. § 2201)

30. The Plaintiff incorporates by reference paragraphs 1 through 29 as if separately set forth herein.

31. As specifically set forth herein, there is an immediate actual controversy between the parties about the use of the “AFTERMATH” mark.

32. Both the Plaintiff and the Defendant have an interest in the dispute that exists between the parties.

33. The Plaintiff has the right to the “AFTERMATH” mark in Massachusetts, Rhode Island, Connecticut, and New Hampshire, based on its good faith prior use of the mark in those states.

34. The Defendant has used and will likely, if not enjoined, continue to use the mark “AFTERMATH” in connection with its company, Aftermath, Inc., in the states in which the Plaintiff has established its right to the “AFTERMATH” mark.

35. The Defendant used the Plaintiff’s mark, has caused confusion, will likely continue to cause consumer confusion, and will infringe and/or dilute the Plaintiff’s trademark.

WHEREFORE, the Plaintiff requests the relief set forth below.

COUNT IV

(Palming Off)

36. The Plaintiff incorporates by reference paragraphs 1 through 35 as if separately set forth herein.

37. By using the Plaintiff’s “AFTERMATH” mark in states in which the Plaintiff has senior rights, the Defendant has intentionally attempted to trade on the Plaintiff’s good will and reputation.

38. The Defendant's acts and conduct have caused and are likely to continue to cause customer confusion as to the source of the Defendant's services.

39. The Defendant's acts and conduct as set forth herein constitute tortious palming off.

40. The acts and conduct of the Defendant as described herein have caused and will continue to cause the Plaintiff substantial and irreparable injury, harm to its reputation, and economic damage. Unless enjoined, the Defendant will likely continue its conduct.

WHEREFORE, the Plaintiff requests the relief set forth below.

COUNT V

(Trademark Dilution pursuant to M.G.L. c. 110B, §12)

41. The Plaintiff incorporates by reference paragraphs 1 through 40 as if separately set forth herein.

42. The Plaintiff's "AFTERMATH" mark is distinctive in the geographical areas in which it operates – Massachusetts, Rhode Island, Connecticut, and New Hampshire.

43. The Defendant's use of the Plaintiff's mark has caused and is likely to continue to cause dilution and tarnishment of the Plaintiff's trademark.

44. The Defendant's conduct has caused and will continue to cause substantial and irreparable injury and harm to the Plaintiff's reputation, dilution to the Plaintiff's trademark, and economic damages. Unless enjoined, the Defendant will likely continue its conduct.

WHEREFORE, the Plaintiff requests the relief set forth below.

COUNT VI

(Unfair Competition – State Law)

45. The Plaintiff incorporates by reference paragraphs 1 through 44 as if separately set forth herein.

46. In Massachusetts, Rhode Island, Connecticut and New Hampshire, the Plaintiff began using the “AFTERMATH” trademark in commerce prior to the Defendant’s use or registration of the term “Aftermath” in those states.

47. The Defendant’s use of “Aftermath” in connection with its business in those states is likely to be confused with the “AFTERMATH” trademark held by the Plaintiff.

48. Accordingly, the Plaintiff is entitled to an injunction enjoining the Defendant from any further use of the “AFTERMATH” mark in connection with its business or services in Massachusetts, Rhode Island, Connecticut, and New Hampshire.

49. By using the “AFTERMATH” mark, the Defendant is intentionally attempting to trade on the Plaintiff’s good will and reputation.

50. The acts and conduct of the Defendant as described herein have caused and will cause the Plaintiff substantial and irreparable injury, harm to its reputation, and/or dilution of the trademark. Unless enjoined, the Defendant will likely continue its conduct.

WHEREFORE, the Plaintiff requests the relief set forth below.

COUNT VII

(Fraudulent Procurement of a Trademark Registration – 15 U.S.C. § 1051(a)(3))

51. The Plaintiff incorporates by reference paragraphs 1 through 50 as if separately set forth herein.

52. The Defendant applied for a federal trademark registration of “Aftermath” on February 4, 2002. In support of the Defendant’s application, on September 24, 2002, the Defendant’s counsel, on behalf of the Defendant, declared to the USPTO that “to the best of my knowledge and belief, no other person, firm, corporation, or association has the right to use the mark in commerce...”

53. At the time of this declaration, the Plaintiff was already using the “AFTERMATH” mark in commerce, and the Defendant was aware of this fact.

54. Through his declaration, the Defendant deliberately attempted to mislead the USPTO into registering the “Aftermath” mark for the Defendant.

55. Because the Defendant’s federal registration of the mark “Aftermath” was obtained by means of a false representation and because the Plaintiff’s right to the “AFTERMATH” trademark is senior to the Defendant’s in Massachusetts, Rhode Island, Connecticut, and New Hampshire, it must be cancelled.

WHEREFORE, the Plaintiff requests the relief set forth below.

COUNT VIII
(Violation of M.G.L. c. 93A)

56. The Plaintiff incorporates by reference paragraphs 1 through 55 as if separately set forth herein.

57. The Defendant’s acts and conduct, as described herein, have occurred in the conduct of trade or commerce primarily and substantially in Massachusetts.

58. The Defendant’s acts and conduct, as described herein, are unfair and deceptive business practices proscribed by M.G.L. c. 93A.

59. The Defendant’s conduct has caused and will continue to cause the Plaintiff substantial and irreparable injury, harm to its reputation, and economic damages. Unless enjoined, the Defendant will likely continue its conduct.

WHEREFORE, the Plaintiff requests the relief set forth below.

PRAYERS FOR RELIEF

1. On Counts I, II, and IV through VIII, enter a preliminary injunction enjoining the Defendant from using the term “Aftermath” or any other phrase confusingly similar to

“Aftermath” in its name or in connection with its business in Massachusetts, Rhode Island, Connecticut, and New Hampshire; and

2. On Counts I, II, and IV through VIII, award judgment in favor of the Plaintiff and enter a permanent injunction enjoining the Defendant from using the term “Aftermath” or any other phrase confusingly similar to “Aftermath” in its name or in connection with its business in Massachusetts, Rhode Island, Connecticut, and New Hampshire; and

3. On Counts I, II, and IV through VIII, enter judgment in favor of the Plaintiff and issue an injunction requiring the Defendant to post a prominent disclaimer on its website, www.aftermathinc.com, stating that the Defendant’s business and services are in no way affiliated with those of the Plaintiff, and providing a link for customers who are seeking access to the Plaintiff’s website, www.aftermathcleaning.com; and

4. On Counts I, II, IV, and VI through VIII, enter judgment in favor of the Plaintiff awarding damages in an amount to be determined, multiplied as appropriate, plus punitive damages, costs, interest and fees; and

5. On Count III, enter judgment in favor of the Plaintiff declaring that: (a) the Plaintiff has senior rights to the “AFTERMATH” trademark in Massachusetts, Rhode Island, Connecticut, and New Hampshire based on first use in those jurisdictions; (b) the Defendant’s use of the term “Aftermath” in connection with its business in those jurisdictions is likely to be confused with the Plaintiff’s trademark, and (c) the Defendant’s use of the term “Aftermath” in connection with its business in those jurisdictions will infringe and dilute the Plaintiff’s trademark; and

6. On Count VII, enter judgment in favor of the Plaintiff, canceling the Defendant’s federal registration of the trademark “AFTERMATH”; and

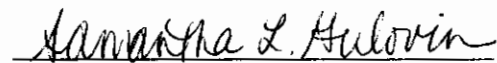
7. Award such other and further relief as the Court deems just and proper.

THE PLAINTIFF REQUESTS A JURY TRIAL ON ALL CLAIMS.

Respectfully submitted,

AFTERMATH CLEANING COMPANY, INC.

By its attorneys,



Brenda M. Cotter (#548004)

Samantha L. Gerlovin (#652389)

BROWN RUDNICK BERLACK ISRAELS LLP

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Dated: June 22, 2005

1366179 v2 - GERLOVSL - 025173/0001

LAVELLE LEGAL SERVICES, LTD.

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TELEPHONE (847) 482-9740

September 24, 2002

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

United States Patent and
Trademark Office
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513
Attn: James Bruno

Re: Serial Number: 76/366432
Applicant: Aftermath, Inc.
Mark: Aftermath

Dear Mr. Bruno:

As you are aware, we are the attorneys representing Aftermath, Inc. On September 3, 2002, you sent notice to our offices concerning their application for registration of the trademark "Aftermath". Enclosed is a copy of your correspondence. We are writing to amend the prior application in accordance with your correspondence.

Declaration

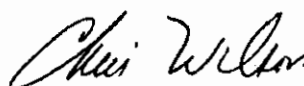
The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declare that I am properly authorized to execute this application on behalf of the applicant; I believe the applicant to be the owner of the trademark sought to be registered; that the mark is in use in commerce and was in use in commerce on or in connection with the services listed in the application as of the application filing date; to the best of my knowledge and belief, no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be

September 25, 2002

Page 2

likely, when used or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

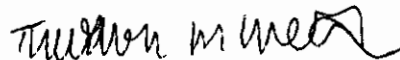
Aftermath, Inc.



By: Chris Wilson
Its: President

Should you have any questions, or need any further information concerning this amendment or the application, please do not hesitate to contact me.

Sincerely,
LAVELLE LEGAL SERVICES, LTD.



Theodore M. McGinn

TMM:lh
Aftermath, Inc.
1682.002
C158\aftermath3.ltr

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Aftermath Cleaning Company, Inc.

(b) County of Residence of First Listed Plaintiff Bristol, MA

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Brenda Cotter (617) 856-8200
Samantha L. Gerlovin
Brown Rudnick Berlack, Israel LLP, One Financial
Center, Boston, MA 02111

DEFENDANTS

Aftermath, Inc.

County of Residence of First Listed Defendant Will County, IL

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorney (If Known)

05-11302 NG**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | |
|---|---|---|---|
| Citizen of This State | PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4 |
| Citizen of Another State | PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3 | Foreign Nation | PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C., Sec. 1125

Brief description of cause:

Trademark infringement and related claims**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMANDS: preliminary and permanent injunction cancellation of mark, and damages (unspecified)

CHECK YES only if demanded in complaint: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE June 22, 2005

SIGNATURE OF ATTORNEY OF RECORD

Samantha L. Gerlovin

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Aftermath Cleaning Company, Inc. v. Aftermath, Inc.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ☐ I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

None.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒ NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Brenda Cotter, Brown Rudnick Berlack Israels, LLPADDRESS One Financial Center, Boston, MA 02111TELEPHONE NO. 617-856-8200